APPEAL NO. 011497
FILED AUGUST 8, 2001

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on June 7, 2001. The hearing officer determined that the respondent (claimant) sustained a compensable injury in the form of an occupational disease; that the date of injury is _____; that the appellant (carrier) is not relieved from liability because the claimant timely notified her employer of the injury pursuant to Section 409.001; and that she did not have disability. The carrier urges on appeal that those determinations that are favorable to the claimant are not supported by the evidence and are contrary to the great weight and preponderance of the evidence. The appeals file contains no response from the claimant. The determination of no disability has not been appealed and has become final. Section 410.169.

DECISION

Affirmed.

Section 401.011(34) defines occupational disease as including repetitive trauma injuries. The date of injury for an occupational disease is the date the employee knew or should have known that the disease may be related to the employment. Section 408.007. The date of injury, when the claimant knew or should have known that her left upper extremity problems may be related to the employment, is generally a question of fact for the hearing officer to resolve. Similarly, whether the claimant's activities were sufficiently repetitive to cause the injury and whether and when the claimant gave notice of the injury to the employer are factual questions for the hearing officer to resolve. The hearing officer is the sole judge of the weight and credibility of the evidence (Section 410.165(a)), resolves the conflicts and inconsistencies in the evidence (Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ)), and determines what facts have been established from the conflicting evidence. It was the hearing officer's prerogative to believe all, part, or none of the testimony of any witness, including that of the claimant. Aetna Insurance Company v. English, 204 S.W.2d 850 (Tex. Civ. App.-Fort Worth 1947, no writ). The hearing officer found for the claimant on these disputed issues and such findings are not so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

Accordingly, the hearing officer's decision and order are affirmed.

Philip F. O'Neill
Appeals Judge

CONCUR:

Robert E. Lang
Appeals Panel
Manager/Judge

Michael B. McShane
Appeals Judge